

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

JOSEPH D. BOVE, JR. CORP., d/b/a EVERGREEN  
COUNTRY CLUB, PHEASANT HOLLOW  
COUNTRY CLUB, and SYCAMORE COUNTRY CLUB,

Plaintiff,

-against-

1:08-CV-123  
(LEK/RFT)

MT. HAWLEY INSURANCE COMPANY, a/k/a  
MT. HAWLEY INSURANCE CO.,

Defendant.

---

**ORDER**

Before this Court is a Motion to dismiss the Fifth Cause of Action in the Complaint filed by Defendant Mt. Hawley Insurance Co. (“Defendant”) on February 25, 2008. Dkt. No. 5. On April 15, 2008, Plaintiff responded with a letter Motion stating his willingness to withdraw the fifth cause of action. Dkt. No. 9. After a review of Defendant’s Motion to dismiss and Plaintiff’s letter Motion in response, the Court agrees with the parties that the fifth cause of action for bad faith and the related prayers for relief seeking punitive damages and attorneys’ fees should be dismissed.

Accordingly, it is hereby

**ORDERED**, that the Defendant’s Motion to dismiss Fifth Cause of Action (Dkt. No. 5) is **GRANTED**; and it is further

**ORDERED**, that the Fifth Cause of Action in the Complaint (Dkt. No. 1, Exh. A) is

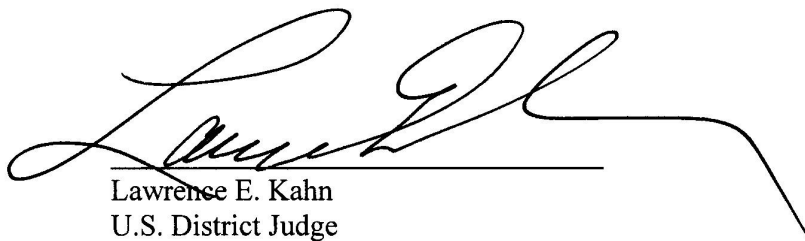
**DISMISSED**; and it is further

**ORDERED**, that those sections of the Complaint's prayers for relief seeking punitive damages and attorneys' fees (Dkt. No. 1, Exh. A) are **DISMISSED**; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on the parties.

**IT IS SO ORDERED.**

DATED: April 16, 2008  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge